

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MOODY WOODROW TANKSLEY,

Plaintiff,

v.

DEPARTMENT OF MOTOR VEHICLES,  
et al.,

Defendants.

No. 2:20-cv-01732-TLN-CKD PS

FINDINGS AND RECOMMENDATIONS

Plaintiff proceeds pro se. This case was referred to the undersigned pursuant to 28 U.S.C. section 636(b). On November 10, 2020, the undersigned ordered plaintiff, within fourteen days, either to pay the required filing and administrative fees or submit a completed application and affidavit in support of his request to proceed in forma pauperis. (ECF No. 3.) The court further cautioned plaintiff that failure to do so would result in a recommendation that this action be dismissed. The deadline for plaintiff to pay the required fees or submit a completed application to proceed in forma pauperis has passed, and plaintiff failed to comply with the undersigned's order.

Federal Rule of Civil Procedure 41 allows a court to dismiss an action sua sponte for failure to prosecute or for failure to comply with the federal rules or any court order. Fed. R. Civ. P. 41(b). Plaintiff has been given ample opportunity to pay the requisite fees. He has impliedly refused or declined to do so. Thus, this action should be dismissed without prejudice for lack of prosecution. See Fed. R. Civ. P. 41(b) (an involuntary dismissal "operates as an adjudication on

the merits,” unless otherwise specified).

Accordingly, IT IS HEREBY RECOMMENDED that:

1. Plaintiff’s original complaint (ECF No. 1) be DISMISSED without prejudice; and
2. The Clerk of Court be directed to close this case.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14) days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Any reply to the objections shall be served on all parties and filed with the court within fourteen (14) days after service of the objections. Failure to file objections within the specified time may waive the right to appeal the District Court’s order. Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

Dated: December 8, 2020

  
CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

17.1732.dismiss